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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,564	04/19/2004	Richard Thiele JR.	THL-10002/29	3187

7590 03/25/2005

Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
Suite 400
280 N. Old Woodward Ave.
Birmingham, MI 48009-5394

EXAMINER


OKEZIE, ESTHER O

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No. 10/827,564	Applicant(s) THIELE, RICHARD	
	Examiner Esther O. Okezie	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/29/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-7 and 8-11 rejected under 35 U.S.C. 102(b) as being anticipated by Lawson.
2. Re claim 1, Lawson discloses a shovel comprising a scoop portion (A') having a width, length, and a leading edge; and a plurality of concave scallops on the leading edge (A⁵).
3. Re claims 2-5, Lawson discloses the scallops include a curved portion having a radius "r" between two points spaced apart by a distance "d" and the radius of each scallop, "r" is substantially greater than "d."
4. Re claim 6, Lawson discloses the scallops are substantially identical (fig. 1)
5. Re claim 7, Lawson discloses a "Combined Lawn rake and Snow Scoop" wherein the scoop is configured for snow shoveling (column 1, lines 18-25).
6. Re claim 9, Lawson discloses the scoop portion configured for gardening (column 1, lines 18-25).
7. Re claim 10, Lawson discloses a scoop portion capable of scraping snow (column 1, lines 18-25).

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8. Re claim 11, Lawson discloses the leading edge attached to the scoop portion (fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8 and 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawson in view of Guo.
10. Re claim 8, Lawson does not disclose stiffening ribs. Guo discloses a snow shovel with stiffening ribs (22). It would be obvious to one of ordinary skill in the art to modify the shovel of Lawson to include stiffening ribs in order to strengthen the frame of the shovel.
11. Re claim 12, Lawson does not disclose the leading edge and the scoop portion constructed of dissimilar materials. Guo discloses a snow shovel wherein the leading edge is constructed from steel and the scoop portion is constructed from aluminum or plastic. It would have been obvious to one of ordinary skill in the art to modify the shovel of Lawson to include a leading edge made of a dissimilar material than the scoop portion because the leading edge undergoes different stresses than the scoop portion, therefore materials of differing stress capacity should be used for greater shovel longevity.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US-342,961, US-2747911, US-758,071, US-2,555,752, US-1839285

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (703) 305-0433. The examiner can normally be reached on Mon-Fri 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine A Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EOO


KATHY MATECKI
SUPERIOR PATENT EXAMINER
TECHNOLOGY CENTER 3600